

TEXT OF PROPOSED REGULATIONS

In the following text, strikethrough indicates deleted text and underlining indicates added text.

Existing Article 7 is repealed:

~~Article 7. Visiting~~

Existing Sections 3170 through 3179 are repealed:

~~3170. General Visiting Policy.~~

(a) ~~The value of visiting as a means to establish and maintain meaningful family and community relationships is recognized and encouraged. Visiting in institutions and facilities of the department will be conducted in as accommodating a manner as is possible in keeping with the need to maintain order, the safety of persons, the security of the institution, and required prison activities such as full-time work/training assignments.~~

(b) ~~Inmates have the right to have personal visits while confined in the institutions and facilities of the department. The right to have visits will not be denied except as is necessary for the reasonable security of the institution and the safety of persons.~~

(c) ~~Limitations on the length and frequency of visits and on the number of persons permitted to visit an inmate at the same time will be imposed to avoid overcrowding or the unequal allocation of visiting time or for other compelling reasons.~~

(d) ~~Devices which do not allow physical contact between inmates and visitors will not be used except as is necessary in individual instances where substantial reasons exist to believe that physical contact with a visitor, visitors or with other inmates will seriously endanger the safety of persons or the security of the institution, or as a temporary measure as punishment for willful failure or refusal to abide by regulations related to visiting.~~

(e) ~~The degree of informality of inmate visiting will be consistent with the overall security requirements of each institution. The amenities of visiting which exceed the right to have personal visits are privileges. Visits are subject to denial or restriction for violations of the conditions under which such~~

~~activities are permitted, or as are necessary to provide a fair allocation of visiting resources and to the extent that visiting conflicts with other required prison activities such as full-time work/training assignments.~~

~~(f) The privacy of individuals and of their visits will not be imposed upon except as is necessary for the identification of persons, and to maintain order and acceptable conduct, and to prevent the introduction of items, commodities or substances which inmates are not permitted to possess.~~

~~(g) Inmates and their visitors shall only embrace and kiss at the beginning and end of each visit; except for holding hands, no other bodily contact shall be permitted.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601 and 5054, Penal Code, and In re French, 164 Cal Rptr. 800 (1980).~~

~~3170.5. Child Victim Visiting Restrictions.~~

~~Visiting shall be prohibited with the child victim(s) under 18 years of age of an inmate sentenced to prison for violating Penal Code Section 261, 264.1, 266e, 285, 286, 288, 288a, 288.5, or 289 unless specifically authorized by a juvenile court.~~

~~(a) For any inmate convicted of a crime listed above where the identity of the child victim(s) is known, the correctional case records specialist (CCRS) at the inmate's reception center shall review the inmate's central file for a court order restricting child victim visitation. In the absence of a court order restricting such visitation, the CCRS shall notify the sentencing court and request such order. The inmate shall be prohibited from visiting with the child victim(s) until such order is received, and after such order is received, unless one of the following conditions is met:~~

~~(1) A juvenile court orders that such visits be allowed pursuant to Welfare and Institutions Code Section 362.6.~~

~~(2) The victim(s) attains the age of 18.~~

~~(b) If the probation officer's report or the court order restricting visitation is unclear as to the identity of the child~~

~~victim(s), the CCRS shall notify the sentencing court and request such clarification. The inmate shall be prohibited from visiting with any minor under 18 years of age until the court provides specific information which clarifies identification of the child victim(s).~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code, and Section 362.6, Welfare and Institutions Code.~~

~~3171. Plan of Operations.~~

~~(a) Wardens, superintendents and regional administrators will prepare and maintain a plan of operations for inmate visiting at their respective institutions and facilities where inmates and parolees reside. The director's approval is required before implementation and before any revision is made to an approved plan. All local visiting procedures must conform to the rules and regulations set forth in this article.~~

~~(b) Newly arriving inmates will be promptly and verbally informed of local visiting procedures and will be given a written summary of all rules, regulations and procedures governing visiting at the institution or facility in which confined. Additional copies will be readily available to inmates to give or send to their visitors. The written summary will include the institution's or facility's visiting schedule, any limitations placed on the frequency of visits, any limitations placed on the number of people who may be permitted to visit an inmate at any one time, guidelines on demeanor, and basic dress standards for visitors. These basic dress standards are as follows:~~

~~(1) All visitors must wear shoes or sandals;~~

~~(2) Visitors must be fully clothed blouses with skirts, pants or shorts, or dresses for women; shirts with pants or shorts for men.~~

~~(3) For security reasons visitors must not wear clothing that in any way resembles state issued inmate clothing (blue denim shirts and denim pants;)~~

~~(c) No limitations will be placed on the number of visitors which may be listed as approved for visiting. This same summary~~

~~will be conspicuously displayed in all public entrances to the institution and will be available to any interested person.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2080, 2601(d), 2930, and 5054, Penal Code.~~

~~3172. Responsibility of Visitors.~~

~~Each inmate and visitor is responsible for his or her own conduct during visits. Violation of laws governing associations with prison inmates; rules set forth in this article; or of local procedures governing visits may result in termination, suspension, restriction, or denial of visiting with the person or persons involved, as described in section 3177 of this article.~~

~~3173. General Visiting Regulations.~~

~~Visiting will be permitted with those persons approved in accordance with the regulations set forth in this article and as included in approved operational plans.~~

~~(a) Visiting is permitted only in designated areas and at designated times.~~

~~(b) All visitors and inmates will be required to present proof of identity before being permitted to visit. Acceptable proof of identification for visitors may be, but is not restricted to, the following:~~

~~(1) Valid California Driver's license with picture (non-laminated);~~

~~(2) Department of Motor Vehicles identification card with picture;~~

~~(3) Valid federal passport with picture;~~

~~(4) Armed forces identification card with picture; or~~

~~(5) Identification cards issued by the United States Department of Justice Immigration and Naturalization Service.~~

~~(c) The absence of identification or other information or knowledge from which identification can be verified will be cause for denial of visits until such verification is obtained.~~

~~(d) The taking of a visitor's fingerprints for the purpose of criminal records check may be a prerequisite of approval to visit, at the discretion of the warden, superintendent or regional administrator, or of his or her designated representative. Refusal to consent to fingerprinting and a records check may be cause for denial of visits. No records check documents or copies hereof will be placed in an inmate's files. All such documents and copies will be destroyed upon completion of the purpose for which they were obtained.~~

~~(e) Any person coming onto the grounds of an institution, their vehicle and the articles of property in their possession are subject to inspection to whatever degree is consistent with the institution's security needs. Such inspections may include a search of a visitor's person, property and vehicle when there is substantial reason to believe the visitor is attempting to smuggle unauthorized items or substances in or out of the institution.~~

~~(f) In all instances where the search of a visitor's person, property or vehicle exceeds that normally required for all visitors, the visitor will be verbally informed of the reason for the search and the name of the official ordering the search. A person who declines a search under such circumstances will be denied admission to the facility as described in Section 3177(c)(3). A written report covering the reason for any extraordinary search of a visitor's person, property or vehicle; the visitor's response, and the results of the search will be submitted to the warden superintendent by the official in charge of visiting no later than the first working day following the incident. A copy of the report, excluding confidential information, shall be given to the inmate whom the person visited or intended to visit, and to the visitor(s) as described in Section 3173(1)(1) (4). A copy of the report excluding confidential information and any notice to the visitor(s), shall also be placed in the inmate's central file.~~

~~(g) Except when prior approval has been obtained from the warden, superintendent or community correctional center administrator for an inmate to visit with his or her unchaperoned minor children or siblings, visitors under 18 years of age must be accompanied by an adult who is also approved to visit, and~~

~~have prior written approval from a parent or their legal guardian if the accompanying adult is not the minor's parent or legal guardian.~~

~~(h) The degree of physical contact permitted between inmates and visitors and of other informalities of visiting will vary between institutions and within institutions of the department. This will depend upon the institution's overall security requirements, the custody classification and assignment of individual inmates, and upon the degree of risk visiting will present to the safety of persons and for the introduction of dangerous contraband.~~

~~(i) Inmates may refuse to see a visitor. The refusal should be in writing and signed by the inmate. If the inmate will not write or sign a refusal to visit, the matter will be documented by staff. The inmate's written refusal of staff's documentation of the matter will be placed in the inmate's central file. The visitor and the inmate will be given a copy of the document that records the inmate's decision.~~

~~(j) When personal contact visits are permitted, the inmate and visitor may pass, exchange, examine or consume any item of property or food either party is permitted to bring into the visiting area. Except as specifically permitted by local visiting procedures, neither party may retain nor take from the visiting area anything which the other party was permitted to bring into the visiting area.~~

~~(k) Except for immediate family members as defined in section 3000, visiting with more than one inmate on the same occasion requires the approval of the warden or regional parole administrator where the inmates are confined. Prior approval to visit one or more inmates at the same or a different institution shall not be a bar to approving an application to visit an inmate or other inmates at the same or other institutions.~~

~~(l) Denial of an initial application to visit, and any subsequent restriction, suspension or termination of previously approved visits, shall be documented for inclusion in the inmate's central file. Such documentation shall clearly set forth the reason for the action, the length of time the action will apply and the circumstances under which the action will be reconsidered.~~

~~(1) When the applicant or visitor is present and is involved in the reason or cause for an adverse action affecting his/her visits, the information spoken to above shall be included in a written notice given to the applicant or visitor on the day the action is taken. This notice shall include the name of the official taking or ordering the action, and instructions for appealing the action taken.~~

~~(2) If the applicant or visitor is not present when an adverse action is taken which affects visits, but is involved in the reason or cause for such an action, the official ordering or taking the action shall include the above information in a letter to the applicant or visitor. Such a letter should be sent to the applicant or visitor within five days of the effective date of the action.~~

~~(3) When the applicants or visitors are not present and not involved in the reason or cause for an adverse action affecting the inmate's visits, such as the actions of a disciplinary or classification committee, it shall be the inmate's responsibility to promptly notify his or her visitors of the action taken.~~

~~(4) All subsequent decisions made as the result of an appeal and the reasons for the decisions will be documented for the inmate's central file, with a copy to the appellant, and a copy to the inmate if the appeal was initiated by anyone other than the inmate. When the circumstances revealed in an appeal investigation find that no violation of rules, regulations or procedures exists, visiting will be promptly approved or restored, as appropriate.~~

~~(5) The provisions of this section shall be included in institution visiting procedures and in the summary of visiting procedures which are made available to inmates and their visitors.~~

~~(m) It is a felony for a former inmate to come on prison grounds for any reason without prior approval of the warden. A letter of request will normally be required. Telephoned requests will not be considered except in emergency situations. Requests to visit an inmate will require the completion of an application, CDC Form 105, by the inmate and the questionnaire, CDC Form 106, by the former inmate. Applications and questionnaires are subject to review and approval by the warden or facility administrator before visiting is permitted. This review, which may include a criminal records check, may delay a decision to deny or approve~~

~~the request for up to 30 days from the date a completed questionnaire, CDC Form 106, is received. Persons on parole, probation or outpatient status must also obtain and present written consent of their case supervisor before visiting will be approved. Regardless of the method used to request permission to come on the grounds for any reason, a former inmate may not come on the grounds until he or she has received written approval to do so. The authority to approve or deny visits by former inmates will not be delegated below the level of correctional lieutenant.~~

~~(n) Local procedures governing the conduct of inmates and visitors will apply as well to personnel assigned to supervise the visiting areas. For example, personnel will not smoke or eat in areas where inmates and visitors are not allowed to do so.~~

~~(o) Inmates who are otherwise eligible for physical contact visiting may be temporarily denied such contact as a penalty for violations related to visiting, including the inmate's unauthorized use or possession of drugs, narcotics, money or other dangerous contraband that has been introduced into the institution.~~

~~(p) Visitors with medically implanted or prosthetic devices who cannot clear the metal detector shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist detailing the nature of the medically implanted prosthetic device and its specific location in/on the body. The verification letter shall be updated annually.~~

~~(g) Visitors who require the use of a wheelchair or other assistive device(s) for mobility impairment shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist detailing the specific type of mobility impairment and verifying the need for a wheelchair or mobility assistive device. The verification letter shall be updated annually. The visitor shall temporarily transfer to a designated institution wheelchair while visiting staff conduct an inspection of the visitor's wheelchair. Visitors who present letters signed by their physician, physiatrist, prosthetist, or orthotist which detail a specific type of mobility impairment and verify the need for using battery powered wheelchairs or custom designed wheelchairs shall be exempt from the process of transferring from their personal wheelchair. The visiting staff shall conduct a visual inspection of the personal wheelchair, and a hand held metal detector shall be used to process the visitor.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601, 4570.5 and 5054, Penal Code.

~~3174. Family Visiting.~~

~~Wardens will incorporate a plan for family visiting in the institution's overall plan for visiting referred to in section 3171. The family visiting plan will extend such visits to as many inmates as is possible commensurate with institution security and the requirements set forth in this section. Each institution will provide all necessary accommodations, except for food, at no cost to the inmates and their visitors, to permit extended and overnight visitation between eligible inmates and members of the inmate's immediate family members as defined in section 3000. Visitors must provide food for themselves and the inmate being visited. In keeping with the institution's approved plan of operations for family visiting, visitors may be required to bring all food for the visit, or, where family visiting units are located inside an institution's security areas, to purchase all food for the visit through the institution.~~

~~(a) When a bonafide and verified foster relationship exists between an inmate and another person, by virtue of being raised in the same foster family, the person may be approved for family visiting with the prior approval of the warden.~~

~~(b) Persons with only a common law relationship to the inmate will not be recognized as immediate family members for the purpose of family visiting.~~

~~(c) Persons under eighteen years of age will not normally be permitted overnight family visits without the presence of another adult member of the inmate's immediate family. Exceptions include an inmate's legal spouse, the inmate's children or legal stepchildren and the inmate's own underage brothers or sisters when such unchaperoned visits are approved by the warden.~~

~~(d) A disciplinary or classification committee action which suspends or rescinds an inmate's eligibility for physical contact with a visitor or visitors during regular visiting will also preclude family visiting with that visitor or visitors for the same period of time. Family visits may be rescinded or suspended without such action affecting an inmate's eligibility for regular personal contact visits.~~

~~(e) Family visiting is a privilege. Eligibility for family visiting will be limited by the assignment of the inmate to a work/training incentive group as outlined in section 3044.~~

~~(1) Family visits shall not be permitted for inmates convicted of a violent offense involving a minor or family member or any sex offense, which includes but is not limited to the following Penal Code Sections: 187 (when the victim is a family member or minor); 192 (when the victim is a family member or minor); 261; 261.5; 262; 264.1; 266c; 266j; 273a; 273d; 273.5; 273.6; 285; 286; 288; 288a; 288.2; 288.5; 289; 289.5; 311.1; 311.2; 311.3; 311.4; 313.1; 314; or 647.6.~~

~~(2) Family visits shall not be permitted for inmates who are in any of the following categories: sentenced to life without the possibility of parole; sentenced to life, without a parole date established by the Board of Prison Terms; designated Close A or Close B custody; designated a condemned inmate; assigned to a reception center; assigned to an administrative segregation unit; assigned to a security housing unit; designated "C" status; guilty of one or more Division A or Division B offenses within the last twelve months; or guilty of narcotics trafficking while incarcerated in a state prison.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

~~3175. Attorney Visitation and Consultation.~~

~~Inmates have a constitutional right of access to an attorney. It is the policy of this department to facilitate both correspondence and personal consultation for this purpose.~~

~~(a) Attorney visitation for the purpose of a private consultation with an inmate will be permitted during the institution's regularly scheduled visiting days and hours. Where regular visiting is scheduled on weekdays and weekends, attorney visits should be scheduled on the weekdays so as not to detract from the available resources needed for the greater volume of weekend visits by friends and relatives.~~

~~(b) When an attorney, or a person authorized to act for an attorney, does not desire or require private consultation accommodations, the attorney or representative may visit an inmate on any scheduled visiting day without a prior appointment or notice to the institution. Such unannounced visits will be subject to the same requirements, accommodations, and services as nonattorney visits.~~

~~(c) When private consultation accommodations are desired, the attorney or the attorney's representative should contact the institution by a letter or telephone call sufficiently in advance of the desired date and time to permit scheduling of available staff and facilities for that purpose. When a prior appointment is made, the institution will have the inmate available for interview at the scheduled time. One week advance notice is desired, with 24 hour advance notice as the minimum required for such service. In an emergency, appointment requests may be cleared through the warden, superintendent or regional administrator.~~

~~(d) In order for an attorney to visit an inmate for the purpose of a private consultation, the attorney need only provide proof of identity, currently active registry with a state bar association, and the written consent of the inmate, in addition to the requested appointment or notice spoken to in subsection (c). Wardens, superintendents and regional administrators are authorized to require proof that an inmate has designated the attorney as his or her "attorney of record" or that a court has made such appointment when there is reason to believe the attorney is not acting in that capacity or is otherwise abusing the privilege of private consultation with the inmate.~~

~~(e) More than one attorney or persons acting on behalf of an attorney may visit in private consultation with an inmate at the same time. Wardens, superintendents and regional administrators may limit the number of such visitors to not more than two in keeping with the availability of facilities and of staff to supervise such visits.~~

~~(f) An attorney may designate, by name and in writing, not more than two representatives to interview an inmate or witnesses on behalf of the attorney. Such designated representatives will be afforded the same accommodation and services as an attorney, providing all other requirements of this section are met.~~

~~(g) Representatives acting in behalf of an inmate's attorney must be one of the following:~~

~~(1) A licensed investigator, licensed by any state.~~

~~(2) A law student certified under state bar rules for practical training of law students, and sponsored by the attorney.~~

~~(3) A legal paraprofessional certified by a state bar or other equivalent legal professional body, and sponsored by the attorney.~~

~~(4) A full-time employee of the attorney.~~

~~(5) A full-time employee of the licensed investigator who has been properly authorized to act on behalf of an attorney.~~

~~(h) Authorization for one or more representatives to act for an attorney, or for a licensed investigator as provided in subsection (i), must be given in a letter, signed by the attorney or licensed investigator, to the warden, superintendent or regional administrator of the institution or facility to be visited. The letters must identify the designated representative by name and by one of the designations spoken to in (1) through (5) of subsection (g). The letters must include the name of the inmate or inmates to be interviewed. Interviews will be limited to only those inmates named. The letter(s) of authorization must be presented or be on file at the institution at the time of the visit. In addition to the letter of authorization to act for an~~

~~attorney or licensed investigator, the representative must present proof of identity (see Section 3173(b)) to confirm that he or she is the person named in the letter.~~

~~(i) A licensed investigator, whose authorization to act for an attorney has been presented to the warden, superintendent or regional administrator of the institution or facility to be visited, may designate one or more of his or her own full-time employees to act for the investigator for the purpose of interviewing an inmate or inmates. A letter of authorization, signed by the investigator is required. The letter must identify the investigator's representative by name, certify that the person is a full-time employee of the investigator, and name the inmate or inmates to be interviewed. The representative must present proof of identify (see Section 3173(b)) to confirm that he or she is the person named in the letter. When properly authorized to act for an attorney, through a licensed investigator, the representative will be afforded the same accommodations and services as provided for attorneys or attorney's representative.~~

~~(j) Staff will not listen to or monitor conversations between an inmate and an attorney or between an inmate and a person authorized to act for an attorney or a licensed investigator. Any and all items including written and printed material that an inmate and an attorney or an attorney's representative wish to exchange during the visit must be presented to the official in charge of visiting for inspection before it is brought into the visiting area. The purpose of this inspection is to insure that contraband items are not enclosed. The inspecting official will not read any part of written or printed material without the expressed consent of the inmate or the attorney or attorney's representative.~~

~~(k) After proper inspection, written and printed material may be exchanged. The attorney or attorney's representative may retain and take from the visiting area and from the institution any written or printed material given to him or her by the inmate.~~

~~(l) The inmate may retain and take from the visiting area any written or printed material given to him or her by the attorney or an attorney's representative, providing the inmate consents to the examination of the material by the official in charge of visiting. The purpose of this examination is to insure against the transmission of material which would pose a serious~~

~~threat to institution security if retained in the inmate's possession. Reading by the examining official will be limited to the minimum extent necessary to make a proper determination. The examining official will keep any knowledge of the content in strict confidence.~~

~~(m) An inmate may refuse to consent to the examination by staff of any written or printed material given to the inmate by an attorney or an attorney's representative. When consent for examination is not given, the official in charge of visiting will immediately place the material in an envelope and seal the envelope in the presence of the inmate. The outside of the envelope will be annotated with the inmate's name and number; a notice that the content consists of unexamined confidential material received from (attorney or representative's name); and the date received. The official taking the action will sign the notation. The envelope will then be placed in the inmate's unissued personal property or be stored in another place designated by the warden, superintendent or regional administrator. The inmate will be allowed the maximum possible access to the material for review and examination in a manner which will prevent the material from being read by other inmates or staff.~~

~~(n) Audio recording of authorized interviews by attorneys and attorney representatives is permitted with the inmate's consent. Prior approval by institution officials is not required. Each institution will maintain audio recording equipment for that purpose. The interviewer may also use privately owned recording equipment providing the equipment can be thoroughly inspected by officials before entry into the institution.~~

~~(o) Video recording of authorized interviews with inmates is permitted with the prior approval of the warden or superintendent. Equipment must be provided by the interviewer, and is subject to inspection by institution officials. If the equipment cannot be thoroughly inspected without an undue risk of damage, the interviewer must agree to pay for the cost of escort and control of the equipment by institution officials while it is inside the institution.~~

~~(p) With prior approval of the warden, superintendent or regional administrator an attorney may attend meetings of institution staff for the purpose of discussing matters concerning his or her inmate clients. Attorneys will not be permitted to attend or participate in any conference or committee~~

~~meeting of staff and the inmate concerned, except as may be authorized in other sections of the director's rules and regulations. This will not preclude an attorney's submission of written views and comments for consideration by institution officials in their determinations affecting the inmate.~~

~~(q) Regulations governing attorney and attorney representative visits do not apply to student assistance and student assistant programs operating under agreements between the department, institutions and law schools. Such programs must be operated in accordance with the individual agreements.~~

~~(r) The director will be notified when any attorney or attorney's representative abuses the privacy permitted in visiting inmates and administrative action is taken to restrict such visits.~~

~~(s) The provisions of this section apply to any attorney authorized to practice in this or in any other state.~~

~~Comment: Former DP-2706, attorney visitation and consultation.~~

~~**NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 4570.5 and 5054, Penal Code; and Procunier v. Martinez, 94 S. Ct. 1800 (1974).**~~

~~**3176. Exclusion of Persons From Institution.**~~

~~(a) The term "exclusion" as used in this section describes an administrative action by the director or by a warden, superintendent or regional administrator to bar, for cause, a person from entering an institution or facility of the department, when in the normal conduct of business, that person would otherwise be permitted to enter. Persons subject to being barred for cause include but are not limited to an inmate's attorney; representative acting on behalf of an attorney; representatives of the news media; delivery persons; and employees of the department and the departments component agencies.~~

~~(b) An order for exclusion from institutions or facilities of this department will be based only upon a determination by the director or by a warden, superintendent or regional administrator that an individual's presence in the institution or facility will~~

~~present a serious threat to security; the individual has been charged with a serious crime or is under investigation for a serious crime committed on institution property; the individual's business purpose for entering the institution is no longer valid or has been lawfully terminated. Temporary exclusion may be ordered pending investigation and verification of information leading to such tentative conclusions.~~

~~(c) Exclusion orders will be issued only by wardens, superintendents and regional administrators for their respective institutions and facilities, or by the director for any or all institutions and facilities. When a warden's, superintendent's or regional administrator's exclusion order affects an inmate's attorney, or when the matter may have departmentwide significance, an immediate telephone report will be made to the director. In all instances of exclusion a written report will be made to the director within two working days of the effective date of the order.~~

~~(d) The person excluded will be informed by letter of the action taken. The person will also be informed that an interview may be requested with the official who ordered the exclusion and an interview arranged at the convenience of both parties. The person excluded will also be informed that they may bring other persons, including an attorney, to the interview, and any information or evidence to support their position. Following an interview, the appellant will be informed by letter of the decision or determination made as the result of the interview. If the exclusion is sustained or if special conditions for entry into institutions are imposed, the reasons will be given. The appellant will also be informed that the decision may be appealed to the director. A copy of the letter to the appellant will be forwarded to the director and a copy will be retained in the institution's files. If the exclusion order is rescinded in full, such notice will also be in written form to the appellant, with a copy to the director.~~

~~Comment: Former DP 2707, exclusion of persons from institution.~~

~~3177. Approval and Denial of Visits.~~

~~The terms "approve," "deny," "suspend," "terminate," "reinstate" and "restricit" as used in this article apply to actions which may be taken by institution or facility staff, acting under the delegated authority of the warden, superintendent or regional administrator, for the administration~~

~~of the approved plan of operations for visitation between inmates and their families and friends. All such actions are subject to the provisions contained in the local approved plan of operations and to the rules and regulations set forth in this article.~~

~~(a) The authority to approved or deny written requests or applications to visit may be delegated by the warden, superintendent or regional administrator to designated staff members.~~

~~(b) The authority to approve or deny requests or applications to visit an inmate for persons who appear in person at an institution or facility and the authority to terminate an approved visit in progress, and to suspend approval for further visits, may be delegated to the official in charge of visiting at that time.~~

~~(c) Reasons for denial of a request or application to visit, by a prospective visitor or an inmate, include but are not limited to the following:~~

~~(1) Inadequate information available to establish positive identity of the prospective visitor. The request or application to visit will be reconsidered when positive identity is established.~~

~~(2) Deliberate falsification of identity by the prospective visitor or of the prospective visitor by the inmate. After positive identity of the prospective visitor has been established, and in keeping with the seriousness of the falsification, a time will be determined for reconsideration of a request to visit.~~

~~(3) Refusal by a prospective visitor or an approved visitor to submit to a search and inspection of their person or of vehicles and property brought onto the institution grounds.~~

~~(A) Refusal to submit to a requested search shall result in the visitor not being permitted to visit on that day. Future visits may be conditioned upon the visitor's willingness to submit to a search prior to each visit for as long as prison officials have reasonable cause to believe that the visitor will attempt to smuggle contraband into the institution.~~

~~(B) Conditions or restrictions placed on an inmate's visiting by a disciplinary or classification committee determination and action for reasons not directly related to a cause for searching the inmate's visitor(s) shall not be affected by the visitor's willingness or unwillingness to submit to a search, nor shall such prior disciplinary or classification committee actions be affected by the results of a search of the inmate's visitor(s) unless the inmate is found in a subsequent disciplinary hearing to have been a conspirator in an attempt to smuggle unauthorized or unlawful items or substances into or out of the institution.~~

~~(C) Visitors shall not be forcibly searched unless institution officials possess a court issued warrant to conduct the search, or unless the cause for a search arises while the visitor is on the institution grounds and the cause for the search is believed by institution officials to be a criminal offense. If institution officials have probable cause to believe that a visitor is in possession of contraband, the visitor may be forcibly detained while a search warrant is sought through the appropriate prosecutor's office.~~

~~(4) Any violation of state law committed on institution property by a visitor, pending investigation, prosecution and service of any sentence ordered by the court. If the offender is not prosecuted, approval to visit will be reconsidered upon request. If the individual is found not guilty by a court, a prior approval to visit will be reinstated. Upon completion of any sentence ordered by a court, a request to visit will be considered. Regardless of the outcome of any referral to prosecuting authorities, future visits are subject to possible restrictions as provided in section 3173(h).~~

~~(5) The prospective visitor has an extensive and recent history of criminal activity for offenses which are of particular sensitivity to institution security, such as transporting contraband in or out of correctional institutions; trafficking in narcotics in or outside of a correctional institution; aiding or attempting to aid in an escape or attempted escape from a correctional institution; the person is a crime partner of an inmate who is currently confined in a correctional institution for the same or a related offense. A time will be determined for reconsideration of a request to visit, in keeping with the circumstance and seriousness of the offenses involved and the need for institution security.~~

~~(6) The prospective visitor was confined in and was discharged from a correctional institution within the previous twelve months, and does not have the prior approval of the warden, superintendent or regional administrator. After one year from the date of a former inmate's discharge from an institution, or after discharge from parole or outpatient status, the warden or superintendent will not deny visiting by a former inmate for reasons that would not apply to any other person as set forth in this article.~~

~~(7) The prospective visitor is currently under parole, probation, or civil addict outpatient supervision and does not have written permission of his or her case supervisor and/or the prior approval of the warden or superintendent. A request to visit will be reconsidered when the case supervisor's permission is presented in writing, except as spoken to in subsection (5).~~

~~(8) The prospective visitor has had no prior personal or correspondence contact with the inmate before or during the inmate's incarceration; no family relationships exist between the prospective visitor and the inmate, and a reasonable and legitimate purpose is not given for visits. A request to visit will be reconsidered upon presentation of information and evidence to support a reasonable and legitimate reason to visit.~~

~~(9) Serious or repetitious violation of rules, regulations and procedures governing visits by an approved visitor or by an inmate while visiting with that person.~~

~~(A) When the violations(s) involve only the visitor, that individual's future visits may be restricted to the degree necessary to prevent further violations during subsequent visits, or the individual's approval to visit may be suspended for not longer than six months before reconsideration will be given, upon written request for such reconsideration. If approval to visit is not restored at that time, further consideration will be given at intervals not to exceed six months, upon request for such reconsideration.~~

~~(B) If the visitor and the inmate are both involved in the violation(s), the administrative actions spoken to in (9)(A) will be applied to future visits between the persons involved. In addition, and under circumstances where only the inmate is involved in the violation(s) the matter will be reported on a disciplinary report for appropriate action.~~

~~(C) Limitations and restrictions beyond those specified by a classification committee action may be placed on an inmate's visits for disciplinary offenses relating to visiting, drugs, narcotics and money as provided in Section 3173(o); or upon an inmate's transfer to another institution with a different approved plan of operations for visiting; or through an action by a classification committee which raises the degree of control and supervision to be exercised over all of the inmate's assignments and activities.~~

~~(10) An individual's approval to visit an inmate may be rescinded when information which would have resulted in denial of visits becomes known only after approval to visit has been granted; or for any activity or event occurring subsequent to the approval which would have resulted in denial of visits if it had occurred before approval was granted.~~

~~(11) The official in charge of visiting may deny a single visit or terminate a visit in progress under the following kinds of circumstances:~~

~~(A) The visitor appears intoxicated or under the influence of drugs to the extent that his or her presence in the institution would pose an undue threat to the safety of self or others, or a threat to the security of the institution.~~

~~(B) The visitor is not properly attired as described in Section 3171(b).~~

~~(C) The visitor is under 18 years of age and the conditions prescribed in Section 3173(g) have not been met.~~

~~(D) The visitor has a medically implanted or prosthetic device and cannot clear the metal detector but does not provide the written verification as required in Section 3173(p).~~

~~(E) The visitor requires the use of a wheelchair or other assistive device(s) for mobility impairment, but does not provide the written verification as required in Section 3173(q), or refuses to temporarily transfer to a designated institution wheelchair while the visitor's personal wheelchair is being inspected, unless exempted from transfer under the provisions of Section 3173(q).~~

~~(F) The visiting areas are in use to maximum capacity and it is necessary to terminate the visits of those persons who have been visiting for the longest period of time in order to allow others to visit.~~

~~(G) Serious violation of institution procedures governing visiting, or repetition of less serious violations and disregard for counseling about such violations.~~

~~(12) Upon denial or termination of a visit, the official taking the action will prepare a report noting reasons for denial or termination which will then be placed in institution files and the inmate's central file, with a copy promptly forwarded to the inmate. The report will be made available to involved parties in accordance with Section 3173(m).~~

~~(13) The ranking custody officer on duty or the supervising official in charge of visiting may restrict visits, but may not deny visiting, as a temporary security measure when an inmate is scheduled for a hearing on a Serious violation or a classification hearing on an order for placement in administrative segregation. Subsequent disciplinary or classification committee action will supersede any such temporary action.~~

~~**NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2086, 2601, 2772, 2790, 4502, 4535, 4571, 4573, 4573.5, 4573.6 and 5054, Penal Code; and In re French, 106 Cal.App.3d 74 (1980).**~~

~~**3178. Appeals Relating to Visiting.**~~

~~Inmates, visitors, and visiting applicants may appeal department policy and regulations as well as institution procedures and practices relating to visiting. All formal appeals are to be submitted in writing.~~

~~(a) Inmates will use the established inmate appeal procedures as provided in Section 3084 et seq.~~

~~(b) Persons other than inmates should address any appeal relating to department policy and regulations to the Director of Corrections. Appeals relating to facility and institution procedures and practices should be addressed, in writing, to the warden, superintendent or regional parole administrator of the~~

~~facility or institution where an issue of appeal arises. The warden, superintendent or regional parole administrator shall provide a written response within 15 working days. Appeals that are not satisfactorily resolved at this level may be referred in writing to the director. The director shall have 20 working days from the date of receipt to provide a written response.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

~~3179. Minimum Visiting Days and Hours.~~

~~(a) Each facility's visiting procedure supplement shall provide a minimum visiting schedule of no less than 12 hours per week. Any reduction of a facility's visiting schedule shall require the prior approval of the director. Visiting days shall be contiguous and shall include Saturday and Sunday.~~

~~(b) Each facility shall allow visiting on the following holidays:~~

- ~~(1) New Year's Day.~~
- ~~(2) Independence Day.~~
- ~~(3) Labor Day.~~
- ~~(4) Thanksgiving Day.~~
- ~~(5) Christmas Day.~~

~~(c) When a holiday listed in (b) occurs on a day not regularly scheduled for visiting, each facility shall provide the same number of hours of visiting on that holiday as for any single regularly scheduled visiting day.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601 and 5054, Penal Code. In re French, 164 Cal.Rptr. 800 (1980).~~

New Article 7 is added to read:

The heading of Article 7 is added to read:

Article 7. Visiting.

New Sections 3170 through 3179 are added to read:

3170. General Visiting.

Visiting is a privilege. However, the value of visiting is recognized and encouraged as a means for an inmate to establish and maintain meaningful family and community relationships. It is the intent of these regulations to establish a visiting process in the institutions/facilities of the department that is conducted in as accommodating a manner as possible, subject to the need to maintain order, the safety of persons, the security of the institution/facility, and required prison activities and operations.

(a) Inmates shall not be permitted to visit during the hours of their assignment to work, training, vocational and/or academic education, except as provided in Section 3045.2.

(b) The privacy of inmates and their visitors shall be respected subject to the need to validate the identity of an inmate or visitor; enforce laws, regulations and procedures; and/or ensure the safety of persons and institution/facility security. Video-recording devices may be utilized in visiting areas, excluding family visiting units or confidential attorney consultation areas.

(c) Any visitor approved for visiting at one institution/facility shall be approved to visit the same inmate upon transfer to another institution/facility.

(d) Inmate visiting may, without prior notification, be terminated, temporarily suspended, or modified in response to an institution/facility emergency. Emergency modifications of the visiting schedule shall be posted as soon as practical to include the automated telephonic visiting information system.

(e) No limitations shall be placed on the number of visitors approved to visit an inmate. However, limitations on the length and frequency of visits may be imposed to avoid overcrowding or the inequitable allocation of visiting time or for other reasons as provided in Section 3176.

(1) An inmate shall not be permitted a contact visit with more than five persons, including minors, at the same time.

(2) An inmate shall not be permitted a noncontact visit with more than three persons, including minors, at the same time.

(f) Visiting with more than one inmate at the same time, shall require either:

(1) The visitors and inmates are immediate family members; or

(2) The visitor(s) has prior written approval from the institution/facility head or designee.

(g) Devices that do not allow physical contact between inmates and visitors shall not normally be used, except as provided in Section 3170.1 or as necessary in the following circumstances:

(1) Physical contact with a visitor(s), or with other inmates, will seriously endanger the safety of persons or the security of the institution/facility,

(2) As a temporary measure as punishment for willful failure or refusal to abide by visiting regulations.

(h) Reasonable accommodation shall be afforded visitors and inmates with disabilities to facilitate their full participation in contact, non-contact, or family visiting as provided in these rules.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, and 5054, Penal Code; and In re French, 164 Cal Rptr. 800 (1980).

3170.1. Visiting General Guidelines.

(a) Visiting is permitted only in designated areas and at designated times.

(b) All reception center visiting shall be limited to non-contact visiting. If the physical plant does not allow non-contact visiting, the institution head shall develop an alternative visiting plan to allow visiting with restricted hours.

(1) Inmates determined to be disabled, who remain at the reception center for extended stays exceeding 60 days due to their disability, shall be authorized regular visiting privileges.

(c) Inmates assigned to Administrative Segregation and Security Housing Units (SHU) shall not be eligible for contact visits. Non-contact visits shall be scheduled in one-hour increments, but may be extended depending upon availability and scheduling. Inmates assessed a SHU Term will be permitted to visit with immediate family members and attorneys only, regardless of housing.

(d) Inmates with commitment offense(s) of possession for sale, sale, and/or manufacture of a controlled substance, as defined in the Division 10 of the Health and Safety Code, shall not be eligible for contact visits for the first twelve months of incarceration.

(e) Inmates may refuse to see a visitor. Such refusal shall not result in removal of the visitor from the inmate's visitor list. To remove a visitor from their approved visitor list, inmates shall submit a written request to the visiting staff. After six months, the inmate may make a written request to have the visitor placed back on their approved visitor list. At this time, the visitor shall reapply for approval to visit by submitting a CDC Form 106, Visiting Application.

(f) During personal contact visits, the inmate and visitor may pass, exchange, examine or consume any item of property or food either party is permitted to bring into or purchase in the visiting area, except those items that are deemed to be contraband when in the possession of the inmate. Neither party may retain or take anything from the visiting area which the other party was permitted to bring into or purchase in the visiting area, except legal documents as provided in Section 3178.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 4570.5 and 5054, Penal Code.

3171. Visiting Procedures

(a) The institution head shall maintain visiting procedures for inmate visiting at each institution/facility. All local visiting procedures must conform to and not conflict with the rules and regulations set forth in this article. The degree of informality of inmate visiting will be consistent with the security requirements of each institution/facility.

(b) Inmates shall be informed of local visiting procedures and shall be given a written summary of all rules, regulations and procedures governing visiting at the institution/facility. Additional copies shall be readily available to inmates to give or send to their visitors. The written summary shall include the institution/facility visiting schedule. This same summary will

be conspicuously displayed in all public entrances to the institution/facility and will be available to any interested person. Institutions/facilities shall have the visiting days and hours, as well as appropriate dress standards, clearly published in the contract visiting centers and in the visitor processing area.

(c) Each inmate and visitor is responsible for his or her own conduct during visits. Violation of laws governing associations with inmates, rules set forth in this article, or local procedures governing visits may result in termination, suspension, revocation, or denial of visiting with the person or persons involved, as described in Section 3176. Such violation may also result in exclusion from the facility, as described in Section 3178.1.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2080, 2601(d), 2930, and 5054, Penal Code.

3172. Applications to Visit an Inmate

(a) It is the inmate's responsibility to forward a CDC Form 106, Visiting Application, to any prospective visitor.

(b) All inmate visitors, including minors, shall provide a completed CDC Form 106 and obtain institution/facility approval before they may be permitted to visit with an inmate.

(1) An emancipated minor shall apply as an adult visitor, and shall provide a certified copy of the court order granting emancipation.

(2) A minor legal spouse of an inmate may apply to visit the inmate as an adult visitor with a certified copy of their marriage license.

(c) If the applicant is a minor, the parent or legal guardian shall complete and sign the CDC Form 106 for the minor unless the minor applies as an adult as provided in (b) above. Except when prior approval has been obtained from the institution head or designee for an inmate to visit with his or her unchaperoned minor children or siblings, visitors under 18 years of age shall be accompanied by an adult who is also approved to visit. Minor visitors shall have prior written approval from their parent or legal guardian if the accompanying adult is not the minor's parent or legal guardian.

(d) Visitors shall submit an updated CDC Form 106 to the institution/facility where the inmate is housed every two years, and whenever there is a change in the visitor's name, address, telephone number, or arrest history. Upon receipt of the CDC Form 106 by the institution/facility, the visitor shall be allowed to continue to visit pending the review and approval/disapproval of the updated visiting application.

(e) Previously approved visitors shall submit a new CDC Form 106 prior to visiting any inmate returned to an institution/facility from parole or admitted into a

substance abuse treatment control unit while on parole. The visitor shall not be allowed to visit prior to obtaining the institution/facility approval.

(f) A visitor application may be approved to visit one or more inmates at the same or a different institution/facility.

(g) The applicant shall return the completed CDC Form 106 to the institution/facility via common carrier or personal delivery (except as provided in Subsection (j) below) addressed to the attention of Inmate Visiting. Any CDC Form 106 received by the visiting office directly from an inmate shall be disapproved.

(h) The application process shall include an inquiry of the arrest history of the visitor applicant and a decision by the institution/facility designated staff to approve or disapprove the application.

(i) The taking of visitor fingerprints to verify identity may be a prerequisite of approval to visit. Refusal to consent to fingerprinting and a criminal record check shall be cause for denial of visits. Arrest history documents and copies obtained from other law enforcement agencies shall be destroyed except when the application for visiting is denied.

(j) It is a felony for a former inmate to come on institution/facility property for any reason, without prior approval of the institution/facility head or designee. Telephone

requests to enter the grounds shall not be considered except in emergency situations. Any person on parole, probation, or outpatient status must also obtain and present written consent from their case supervisor before visiting will be approved.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3172.1 Approval/Disapproval of an Application to Visit an Inmate.

(a) The authority to approve or deny written requests or applications to visit may be delegated by the institution head. This authority shall not be delegated below the level of a Correctional Sergeant or Parole Agent II.

(b) Reasons for disapproving a person's application to visit an inmate include but are not limited to the following:

(1) The applicant has outstanding arrests/warrants including a Department of Motor Vehicles Failure to Appear notice with no disposition from the court.

(2) The applicant has one felony conviction within the last three years or two felony convictions within the last six years or three or more felony convictions during the last ten years.

(3) The applicant has any one conviction of the following types of offenses:

(A) Distributing a controlled substance into or out of a state prison, correctional institution/facility or jail.

(B) Transporting contraband (weapons, alcohol, escape and drug paraphernalia, etc.) in or out of a state prison, correctional institution/facility or jail.

(C) Aiding or attempting to aid in an escape or attempted escape from a state prison, correctional institution/facility or jail.

(D) The applicant is a co-offender of an inmate who is currently incarcerated in an institution/facility.

(4) The applicant is a former inmate who has not received the prior written approval of the institution head or designee. After one year from the date of a former inmate's discharge from an institution/facility, or after discharge from parole or outpatient status, the institution head will only deny visiting by a former inmate for reasons that would apply to any other person as set forth in this article.

(5) The applicant is a parolee, probationer, or on civil addict outpatient supervision and who has not received written permission of his or her case supervisor and/or the prior approval of the institution head.

(6) The identity of the applicant or any information on the CDC Form 106, Visiting Application, is falsified or omitted.

(A) If the applicant has omitted information on the CDC Form 106, additional requests or applications to visit shall be reconsidered once the information is provided.

(B) If the applicant has falsified information on the CDC Form 106, no additional request or application to visit shall be considered until six months after the date of disapproval.

(C) If adequate information is not provided to establish the positive identity of the applicant, the request or application to visit will be reconsidered when positive identity is established.

(c) The approval or disapproval of an application to visit shall be documented on a CDC Form 887, Notice of Visitor Approval/Disapproval.

(1) Inmates shall, upon receipt of the CDC Form 887, be responsible for informing their visitor applicants of the institution/facility decision to approve the application.

(2) If the application is disapproved, the applicant and inmate shall each be provided a copy of the CDC Form 887, which shall include the general reason(s) for the disapproval to the inmate, and specific information regarding the disapproval to the applicant. Information regarding the application for reconsideration shall also be provided.

(d) The applicant may appeal the disapproval by following the established visitor appeal process described in Section 3179.

(e) Approval to visit an inmate is conditioned upon compliance with all laws, regulations, and procedures governing visitor conduct on institution/facility property.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3172.2. Minimum Visiting Days and Hours.

(a) Each institution/facility shall provide visiting for no less than 12 hours per week. Any reduction of an institution/facility visiting schedule shall require the prior approval of the Director. Visiting days shall be contiguous and shall include Saturday and Sunday.

(b) Each institution head shall develop an operational supplement that includes the respective visiting schedules as follows:

- (1) Regular Visiting Days:
 - (A) Four Days: -Thursday through Sunday.
 - (B) Three Days: -Friday through Sunday.
 - (C) Two Days: -Saturday and Sunday.
- (2) Holiday Visiting Days:
 - (A) New Year's Day.
 - (B) Independence Day.
 - (C) Labor Day.
 - (D) Thanksgiving Day.
 - (E) Christmas Day.

(c) When a holiday listed in (b)(2) occurs on a day not regularly scheduled for visiting, each institution/facility shall provide the same number of hours of visiting on that holiday as for any single regularly scheduled visiting day.

(d) Non-contact visits shall be scheduled in one-hour increments and based on space availability.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, and 5054, Penal Code. In re French, 164 Cal. Rptr. 800 (1980).

3173. Processing of Approved Inmate Visitors.

(a) Approved visitors shall complete a CDC Form 1000, Visitors Pass, upon their arrival at the institution/facility visitor processing center and their approval to visit shall be verified.

(b) All visitors seven years and older shall present picture proof of identity before being permitted to visit. All visitors younger than seven years shall present a certified copy of their birth certificate, or county embossed abstract of birth. Acceptable proof of identification for visitors may be, but is not restricted to, the following valid documents:

(1) Driver's license with picture,

(2) Department of Motor Vehicles identification card with picture,

(3) Picture passport,

(4) Armed forces identification card with picture,

(5) Picture identification cards issued by the United States Department of Justice--Immigration and Naturalization Service, or

(6) Picture identification issued by the Mexican Consulate entitled Secretaria De Relations Exteriores, Servicio Exterior Mexicano, Certificado De Matricula Consular. (This form of identification shall not be accepted after 60 days from the initial visit at the institution/facility.)

(c) Except as provided in Section 3173.1, minors may be allowed to visit an inmate. If the accompanying adult is not the parent or legal guardian of the minor, a notarized written consent shall be required from the person with sole legal custody of the minor, authorizing the minor to visit while accompanied by a designated adult. When legal custody of a minor is shared, both parties shall provide notarized written consent.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3173.1. Visiting Restrictions with Minors.

Visiting with minors shall be prohibited for any inmate sentenced to prison for violating Penal Code Section 261, 264.1, 266c, 273d, 285, 286, 288, 288a, 288.5, or 289 unless specifically authorized by a juvenile court, pursuant to Welfare and Institutions Code Section 362.6. Inmates may be prohibited from having contact or non-contact visits where substantial

evidence of the misconduct described in Section 3177(b)(1) exists, with or without a criminal conviction.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code; and Section 362.6, Welfare and Institutions Code.

3173.2. Searches of Inmates' Visitors.

(a) Any person coming onto the property of an institution/facility shall be subject to search as necessary to ensure institution/facility security including prevention of the introduction of contraband. Searches may include metal detection devices, drug detection devices, x-ray equipment, contraband detection devices, dogs, a clothed or unclothed body search, and searches of personal property and vehicles when there is reasonable cause to believe the visitor is attempting to introduce or remove contraband or unauthorized substances into, or out of, the institution/facility.

(b) Visitors shall not be forcibly searched unless institution/facility officials possess a court issued warrant to conduct the search, or unless the need for a search arises while the visitor is on the institution/facility grounds and staff have probable cause to believe the visitor's conduct constitutes a crime and evidence may be lost or destroyed before a search warrant may be obtained. If institution/facility officials have probable cause to believe that a visitor is in possession of

contraband, the visitor may be forcibly detained while a search warrant is sought through the appropriate prosecutor's office.

(c) Visitors shall be required to submit to contraband and/or metal detection device(s), and a thorough search of all personal items prior to being allowed to visit with an inmate. Visitors with medically implanted or prosthetic devices who cannot clear the metal detection device and visitors who require the use of a wheelchair or other assistive devices for mobility impairment shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist. The letter of verification must confirm the mobility impairment and/or the nature of the medically implanted prosthetic device and its specific location in/on the body. The authorization letter shall be renewed every two years.

(d) Visitors who require the use of a wheelchair shall temporarily transfer to a designated institution/facility wheelchair, when available, while visiting staff conduct an inspection of the visitor's wheelchair. An exemption shall be made for visitors who present a letter of verification which confirms the need for using a battery powered or custom designed wheelchair. In all cases, the visiting staff shall conduct a visual inspection of the personal wheelchair and use a hand held metal detection device to process the visitor.

(e) If the visitor has a medical implant, prosthetic device, uses a wheelchair or assistive device(s), and circumstances require an unclothed body search, a licensed physician, nurse, and/or medical technical assistant of the same gender shall be present to assist in accordance with their duties or classification.

(f) Except as provided in Section 3173.2(b), when the search of a visitor's person, property or vehicle exceeds that which is normally required for all visitors, the visitor shall be informed of the reason for the search and the name of the official ordering the search. A CDC Form 888, Notice of Request for Search, shall be completed and permission shall be granted by the visitor prior to proceeding with the search.

(g) A visitor who refuses to be searched shall have their visiting privileges denied for that day.

(h) A written report documenting the reason for any exceptional search of a visitor's person, property, or vehicle shall be submitted to the institution head, or designee, by the official in charge of visiting no later than the first working day following the incident. This report will also include the visitor's response and the results of the search. A copy of the CDC Form 887-A, Notice of Visitor Warning/Termination/Suspension/Denial/Revocation, with all confidential information redacted, shall be given

to the inmate whom the person visited or intended to visit, and to the visitor(s) as described in Sections 3172.1(c)(1) and 3172.1(c)(2). A complete copy of the report, including any confidential information and any notice to the visitor(s), shall also be placed in the appropriate section of the central file of the inmate whom the person visited or intended to visit.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3174. Standards of Dress for Inmate Visitors.

(a) To maintain an environment appropriate for people of all ages, visitors shall be dressed modestly according to these standards, and shall remain fully clothed at all times in the visiting room. Appropriate attire includes undergarments; a dress or blouse/shirt with skirt/pants/ or shorts; and shoes or sandals.

(b) Female visitors (excluding pre-pubescent females) must wear a brassiere. For security reasons, no brassiere will have metal underwires. A slip shall be worn when a skirt or dress is translucent, under any circumstances.

(c) Prohibited attire consists of, but is not limited to, the following:

(1) Clothing that resembles state-issued inmate clothing (blue denim or blue chambray shirts and blue denim pants);

(2) Clothing that resembles law enforcement or military-type clothing (forest green or camouflage-patterned), including rain gear;

(3) Clothing exposing the breast/chest area, genitals or buttocks;

(4) Clothing that by its design or by the manner in which it is worn allows for the anatomical detail of body parts to be clearly viewed, e.g. Spandex, Lycra, or excessively tight clothing;

(5) Dresses, skirts, pants, and shorts exposing more than two inches above the knee, including slits;

(6) Shear or transparent garments;

(7) Sleeveless garments;

(8) Clothing exposing the midriff area;

(9) Clothing or accessories displaying obscene or offensive language or drawings;

(10) Gloves, head coverings (except clear, see-through rain gear), and readily removable wigs, hairpieces, hair extensions. The institution head or designee may grant an exception for a visitor to wear gloves, head coverings, and/or readily removable hairpieces or wigs, based upon verification of need. Written approval shall be required prior to visiting. The institution head or designee may grant a general exception allowing visitors to wear gloves

and head coverings based upon weather conditions at the institution/facility.

(d) Approved head coverings, gloves, and readily removable hairpieces and wigs shall be inspected by staff prior to the visit.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3175. Standards of Conduct for Inmates and their Visitors.

(a) Inmates and visitors shall comply with all laws, regulations and institution/facility procedures. Any violation may result in denial, termination, suspension, restriction, or revocation, of visiting as described in Section 3176.

(b) Accompanying adults shall ensure that minors remain under their constant control and supervision.

(c) Nursing mothers shall be allowed to breast feed their infants in the visiting area at each institution/facility. Nursing mothers shall be discreet and remain covered up at all times. Failure to do so shall result in termination of visiting for that day.

(d) Inmates and their visitors may hold hands.

(e) At the beginning and end of each visit, inmates and their visitors may embrace and/or kiss, not to exceed five seconds.

(f) Inmates may hold minor children on their laps; however, male inmates may not hold minor children seven years of age or older on their lap.

(g) Except as provided in the section, no other bodily contact shall be permitted.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176. Denial, Restriction, Suspension or Revocation of Approved Visitor and Termination of Visits.

The terms "approve," "deny," "suspend," or "revoke," "terminate," "reinstate" and "restrict" as used in this article apply to actions which may be taken by the institution head or designee for the administration of visiting. All such actions are subject to the provisions set forth in this article.

(a) The official in charge of visiting may deny an approved visitor access to a institution/facility, terminate, or restrict a visit in progress for reasons which include, but are not limited to:

(1) The visitor appears to be under the influence of alcohol, drugs or other substance to the extent that his or her presence in the institution/facility would pose an undue threat to his or her safety or the safety of others, or to the security of the institution/facility.

(2) The visitor does not provide the identification and/or documentation required as set forth in these regulations.

(3) The visitor refuses to submit to a search and inspection of their person or of vehicles and property brought onto the institution/facility grounds.

(A) Visitors who refuse to submit to an unclothed body search shall have their visiting privileges denied for that day. Future visits may be conditioned upon the visitor's willingness to submit to an unclothed body search prior to being allowed to visit. The type of search to be conducted shall be based on reasonable cause, and may be repeated on subsequent visits for as long as prison officials have reasonable cause to believe that the visitor will attempt to smuggle contraband into the institution/facility.

(B) The willingness or unwillingness of the visitor to submit to a search shall not affect conditions or restrictions placed on an inmate's visiting privileges by a disciplinary or classification committee unless the inmate is found in a subsequent disciplinary hearing to have been a conspirator to smuggle contraband into or out of the institution/facility.

(4) Conduct in violation of institution/facility procedures that if committed by an inmate would constitute a serious rules violation under Section 3315(a) or repetition of less serious violations and disregard for warning about such violations.

(5) The visitor is not appropriately dressed.

(6) The visitor is under 18 years of age and the conditions prescribed in Section 3173(c) have not been met.

(7) The visitor has a medically implanted or prosthetic device, cannot clear the contraband or metal detection devices, and does not provide the written verification required in Section 3173.2(c).

(8) The visitor requires the use of a wheelchair or other assistive device(s) for mobility impairment, but does not provide the written verification as required in Section 3173.2(d), or refuses to temporarily transfer to a designated institution/facility wheelchair while the visitor's personal wheelchair is being inspected, unless exempted from transfer under the provisions of Section 3173.2(d).

(9) The maximum capacity of the visiting area is reached and to allow others to visit it is necessary to terminate the visits of those persons who have been visiting for the longest period of time. Exceptions shall include, but are not limited to the following:

(A) Excessive Distance: The visitor has traveled a distance of 250 miles or more, and has not visited within the last 30 days. This exception applies to two consecutive days of visiting.

(B) Weddings: When an inmate and the visitor's marriage ceremony occurred on that day.

(C) Disabled: A disabled visitor who must rely on special transportation to the institution/facility.

(D) Family Emergencies: When death, serious illness or injury occurs to an inmate's immediate family. Clergy or approved visitors may visit the inmate to offer condolences or inform the inmate of the occurrence.

(E) Infrequent Visits: When an inmate receives not more than one visit each six months.

(10) When the above visiting terminations are complete and the overcrowding situation persists, the visits of those remaining will be terminated as necessary.

(b) The institution head or designee may revoke or suspend an approved visitor's future visits for a specified period of time, pursuant to Section 3176.1, for the following reasons:

(1) Information which would have resulted in denial of visits becomes known only after approval to visit has been granted, or any conduct occurs subsequent to the approval which would have resulted in denial of visits if it had occurred before approval was granted.

(2) The visitor has been involved in serious violations or multiple less serious violations of CDC regulations.

(c) Written notification shall be provided to the visitor upon determination by the official in charge of visiting to deny, terminate, or restrict a visitor's visit. The written notification shall contain information instructing the visitor how to appeal the action as outlined in Section 3179.

(d) The ranking custody officer on duty or the official in charge of visiting may restrict visits, but may not deny visiting, as a temporary security measure when an inmate is scheduled for a hearing on a serious rules violation or for classification on an order for placement in administrative segregation. Subsequent disciplinary or classification committee action will supersede any such temporary action.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176.1. Visitor Violation Process.

All visitors entering an institution/facility for the purpose of visiting an inmate shall be subject to all laws, rules and regulations. Visitors violating a law, rule or regulation shall be subject to warning, termination, suspension, and/or revocation of their visiting privileges. Actions may include a:

(a) **Warning** for less serious violations. When a verbal warning achieves corrective action, a written report of the misconduct or warning on a CDC Form 887-A, Notice of Visitor Warning/Termination/Suspension/Denial/Revocation, is not necessary.

(b) **Termination.** When misconduct resulting in a warning under Subsection (a) above recurs or for serious violations as stated in Section 3315(a), the visit shall be terminated for the day and documented on the CDC Form 887-A.

(c) **Suspension up to one month.** When misconduct similar to that under (a) recurs after termination of the visit, for serious violations as stated in Section 3315(a), or for any four non-related rule violations resulting in written warnings within the last 12-month period.

(d) **Suspension up to three months.** When misconduct similar to that resulting in a one-month suspension recurs after a one-month suspension of visiting privileges, for serious violations as stated in Section 3315 (a), or for any five non-related rule violations resulting in written warnings within the last 12-month period.

(e) **Suspension up to six months.** The official in charge of visiting may impose a suspension of visiting privileges up to 6 months.

(1) When an offense similar to that resulting in a three-month suspension recurs after a three-month suspension or for serious violations as stated in Section 3315 (a).

(2) Any six non-related rule violations resulting in written warnings within the last 12-month period.

(3) When a visitor is believed to have been involved in a criminal act, pending the outcome of the investigation.

(f) **Suspension up to 12 months.** When a visitor is involved in criminal activity on institution/facility property which results in a misdemeanor conviction. The

institution head or designee may impose a suspension of visiting privileges up to 12 months.

(g) **Suspension up to 24 months.** When a visitor is involved in criminal activity on institution/facility property which results in a felony conviction. The respective Deputy Director or designee may impose a suspension of visiting privileges up to 24 months.

(h) **Revocation.** When information which would have resulted in denial of visits becomes known after approval to visit has been granted, or any conduct occurs subsequent to the approval which would have resulted in denial of visits if it had occurred before approval was granted.

(i) All written warnings, terminations, suspensions and revocations shall be documented on CDC Form 887-A, Notice of Visitor Warning/Termination/Suspension/Denial/Revocation. The form shall clearly state the reason for the action and the length of time the action will apply. The notification shall include the signature of the official taking the action and advise the visitor of the right to appeal in accordance with Section 3179. The original copy shall be provided to the visitor at the time of the action or mailed to the visitor's last known address within five working days of the action. Copies shall be placed in the inmate's central and visiting files and forwarded to the institution head.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176.2. Violation of State Law on Institution/Facility Property.

Any violation of state law, misdemeanor, or felony committed on institution/facility grounds or property by a visitor may be referred to prosecuting authorities.

(a) Upon determination by the official in charge of visiting that a violation of state law has occurred, the visitor's visiting privileges shall be suspended/pending investigation, prosecution, and service of any sentence by the court.

(1) If the individual is not prosecuted, or upon completion of any court ordered sentence, approval to visit shall be reconsidered upon the visitor's written request.

(2) If a court finds the individual not guilty, a prior approval to visit shall be reinstated.

(b) Regardless of the outcome of any referral to prosecuting authorities, future visits are subject to restrictions as provided in Section 3176.1.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176.3. Restriction, Revocation or Suspension of an Inmate's Visits

Any suspensions under this section shall not apply to attorney visits including visits by attorney representatives.

(a) Designated staff, not below the rank of Correctional Lieutenant or Parole Agent II, may temporarily impose noncontact visiting restrictions as a necessary security measure for an inmate who is pending a disciplinary hearing on a CDC Form 115, Rules Violation Report, for the distribution and/or possession/control of a controlled substance, possession of money or other dangerous contraband that has been introduced into the institution/facility, or for other violations related to visiting.

(b) Pursuant to Section 3314, a hearing officer conducting an administrative rules violation hearing may restrict an inmate's visiting privileges for up to 30 days when the inmate is found guilty of visiting related misconduct.

(c) Upon a finding of guilt of a drug related offense, as described in Subsections 3323(c)(7) and/or 3323(d)(6), the official conducting a disciplinary hearing, shall suspend and restrict an inmate's visiting privileges pursuant to Subsections 3315(f)(5)(H) and 3315(f)(5)(I).

(d) Pursuant to Section 3315, the official conducting a disciplinary hearing may suspend or restrict an inmate's visiting

privileges for up to 90 days, when the inmate is found guilty of any of the following serious rule violations:

(1) Possession of \$5.00 or more without authorization.

(2) Visiting related violations presenting a threat as described in Section 3315(a)(2).

(3) Serious or repeated violations of visiting regulations or procedures.

(e) Suspension and or restriction of visiting may be imposed by a classification committee for a specific period of time when there is substantial reason(s) to believe that the inmate poses a threat to the security of the institution/facility and or safety of persons.

(1) Separate from the disciplinary authority of the Senior Hearing Officer as provided in Section 3315, a classification committee may suspend and restrict the visiting privileges of an inmate found guilty of multiple visiting related violations as described in Section 3176.3(d). The committee may impose the following suspensions and restrictions:

(A) Suspension of visiting privileges for up to 90 days, to be followed by non-contact visiting for up to 180 days for any second offense which occurs within two years from the date of a previous offense.

(B) Suspension of visiting privileges for up to 180 days, to be followed by non-contact visiting for up to 180 days for any

third offense which occurs within two years from the date of a first offense.

(2) A classification committee may impose a loss of visits for 180 days, to be followed by non-contact visits for 180 days, for escape or attempted escape when the inmate is found guilty by a disciplinary hearing officer or court.

(f) When the inmate's visiting privilege status has been modified or changed, the inmate shall be responsible for promptly notifying their visitor(s) of the action taken.

NOTE: Authority cited: CCR Section 5058, Penal Code. Reference: CCR Sections 2086, 2772, 2790, 4502, 4535, 4571, 4573, 4573.5, 4573.6 and 5054, Penal Code; and In re French, 106 Cal.App.3d 74 (1980).

3177. Family Visiting.

Institution heads shall maintain family visiting policies and procedures. Family visits are extended overnight visits, provided for eligible inmates and their immediate family members, commensurate with institution security, space availability, and pursuant to these regulations. Each institution shall provide all necessary accommodations, except for food, at no cost to the inmates and their visitors. Institutions shall require eligible inmates to purchase all food for the family visit through the institution family visiting coordinator. Each institution family visiting menu shall provide a balanced variety of nutritional selections. At all CDC conservation camps, the visitors shall be required to bring all food for the visit.

Persons with only a common-law relationship to the inmate will not be recognized as immediate family members for the purpose of family visiting. Only those immediate family members as defined in Section 3000 are authorized for Family Visits.

(a) When a bonafide and verified foster relationship exists between an inmate and another person, by virtue of being raised in the same foster family, the person may be approved for family visiting with the prior approval of the institution head or designee.

(b) Family visiting is a privilege. Eligibility for family visiting shall be limited by the assignment of the inmate to a qualifying work/training incentive group as outlined in Section 3044.

(1) Family visits shall not be permitted for inmates convicted of a violent offense involving a minor or family member or any sex offense, which includes but is not limited to the following Penal Code Sections: 187 (when the victim is a family member or minor); 192 (when the victim is a family member or minor); 243.4 261; 261.5, 262; 264.1; 266c; 266j; 273a; 273d; 273.5; 273.6; 285; 286; 288; 288a; 288.2; 288.5; 289; 289.5; 311.1; 311.2; 311.3; 311.4; 313.1; 314; or 647.6.

(A) Inmates may be prohibited from family visiting where substantial evidence of the misconduct described in Section 3177(b)(1) exists, without a criminal conviction.

(B) Family visiting shall be restricted as necessary to maintain order, the safety of persons, the security of the institution/facility, and required prison activities and operations, pursuant to Section 3170.

(2) Family visits shall not be permitted for inmates who are in any of the following categories: sentenced to life without the possibility of parole; sentenced to life, without a parole date established by the Board of Prison Terms; designated Close A or Close B custody; designated a condemned inmate; assigned to a reception center; assigned to an administrative segregation unit; assigned to a security housing unit; designated "C" status; guilty of one or more Division A or Division B offenses within the last 12 months; or guilty of narcotics distribution while incarcerated in a state prison.

(3) Family visits shall be permitted only in CDC institutions and conservation camps.

(c) Unescorted minors of the inmate's immediate family shall not participate in family visits. Exceptions include an inmate's legal spouse, the inmate's children or legal stepchildren and the inmate's own brothers or sisters when the institution head or designee approves such unchaperoned visits.

(d) An inmate shall not be eligible for a family visit while any action that restricts, suspends, or denies their contact with a visitor or visitors during regular visiting is in effect. Family visits may be revoked or suspended without such

action affecting an inmate's eligibility for regular personal contact visits.

(e) Each inmate shall be subject to disciplinary action, which may include suspension or exclusion from participation in the Family Visiting Program, for any willful damage of the unit and/or furnishings or for failure to maintain the cleanliness of the Family Visiting Program unit.

(f) Visitors failing to report to the visitor processing area by 11:00 a.m. without the notification and approval of the family visiting coordinator are subject to cancellation of the visit and suspension of family visiting program privileges for six months.

(g) Inmates with disability requiring accommodation for family visits shall give 72 hours notice of any request for accommodation.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3178. Attorney Visitation and Consultation.

An attorney who wishes to visit an inmate shall request an appointment by calling or writing the staff designated in the institution/facility operational supplement. The attorney needs to produce written consent from the inmate and obtain approval/clearance. To obtain the approval/clearance, the attorney shall provide the following personal information: date

of birth, valid driver's license number and proof of current registry with a governing state bar association, in good standing. Upon receipt of the information, a California Law Enforcement Telecommunications System (CLETS) check of the attorney through the Department of Justice and verification of the attorney's credential through the governing state bar will be conducted. If a CLETS check is not possible, a manual check will be conducted. A manual check may take up to 45 days.

Once the clearance and verification has been obtained and approved, the attorney shall be contacted to schedule the visit. The attorney approval/clearance is valid for two years for all clients at the particular institution that conducted the clearance.

Regulations governing attorney and attorney representative visits do not apply to student assistants and student assistant programs operating under agreements between the Department, institutions, facilities and law schools. Such programs must be operated in accordance with the individual agreements.

The provisions of this section apply to any attorney authorized to practice in this or in any other state.

(a) Private consultation between an inmate and their attorney or attorney representative, also known as attorney visits, shall be accommodated during the institution/facility regularly scheduled visiting days and hours. Where regular visiting is scheduled on weekdays and weekends, attorney visits

should be scheduled on weekdays to not reduce available resources needed for the greater volume of weekend visits by friends and relatives.

(1) When an institution/facility visiting schedule does not provide any hours during normal business hours (Monday through Friday between 8 a.m. and 5 p.m.), an attorney visit shall be scheduled during normal business hours upon written request of the attorney or attorney representative, pursuant to Subsection (e).

(2) The institution head or designated staff may authorize an attorney visit outside of the institution/facility visiting schedule, when the attorney or attorney representative has a documented compelling need to visit the inmate and the visit does not interfere with the safety and security of the institution/facility.

(b) Attorney visits shall be conducted in a confidential area specified by the institution/facility. When a compelling need exists, the institution head or the official in charge of visiting may authorize a contact attorney visit for an inmate on noncontact visiting status.

(c) An attorney or court may designate other persons to act as attorney representative(s).

(1) The designation(s) shall be in writing and signed by the attorney and/or licensed investigator, as appropriate, and shall contain the following:

(A) The designee's name and position of employment or title.

(B) The designee's date of birth, driver's license and Social Security number.

(C) Certification that the representative is an employee and/or a licensed investigator retained by the attorney or appointed by the court.

(D) The name and CDC number of the inmate(s) to be visited.

(E) The designation(s) shall be presented by the representative at the time of their visit and shall be subject to verification by institution/facility staff.

(d) Attorney representatives acting on behalf of an inmate's attorney must be one of the following:

(1) An investigator licensed by any state, or a full-time employee for an authorized licensed investigator.

(2) A law student certified under state bar rules for practical training of law students, and sponsored by the attorney.

(3) A legal paraprofessional certified by a state bar or other equivalent legal professional body, and sponsored by the attorney.

(4) A full-time employee of the attorney.

(5) A full-time employee of the licensed investigator who has been properly authorized to act on behalf of an attorney.

(e) If an attorney, or attorney-representative, does not desire or require private accommodations, the attorney or attorney representative may visit the inmate on any scheduled visiting day and shall be provided the same accommodations including the schedule, as a regular visitor.

(f) If the attorney or attorney representative has not previously been approved to visit at that institution/facility, the attorney or attorney representative is subject to the requirements of Section 3172 in addition to the requirements of this section.

(2) To accommodate or schedule private consultations with an inmate, the approved attorney (legal representative) or approved attorney representative shall provide the institution/facility with no less than 24 hours notice. An attorney or attorney representative not previously approved to visit shall notify the institution/facility 48 hours in advance in order to process the request for visitation. However, advance notice of one week is preferred. In an emergency, appointment requests may be cleared through the institution head or designee.

(3) Upon arrival at the institution/facility, the approved attorney shall be processed to enter the institution/facility in the same manner as regular visitors, except they shall also be required to provide:

(A) Proof the attorney is currently registered with a state bar association, in good standing.

(B) The inmates' written consent for the attorney visit, or in the alternative, courts order designating the attorney as the inmate's legal representative.

(4) Attorney representatives shall be subject to the application and approval requirements of Section 3172, with the following exceptions: Sections 3172(a), 3172.1(c), and 3172.1(c)(1). An inmate or staff may forward the CDC Form 106, Visiting Application, to a prospective attorney representative. Approval or disapproval of the application shall be documented on the CDC Form 887, Notice of Visitor Approval/Disapproval. Staff are responsible for informing the prospective attorney representative of the institution/facility decision to approve / disapprove the application.

(5) Attorney representatives shall be afforded the same accommodations and services as an attorney, providing all other requirements of this section are met.

(f) When an attorney asks to see inmates for whom the attorney does not have a signed consent form, but as the result of information acquired during a private consultation with another inmate, the institution/facility shall afford the attorney reasonable accommodation. Reasonable accommodation means, but is not limited to; acquiring the inmate's written consent to talk with the attorney; bringing the inmate to the attorney visiting room, etc. If the request imposes an unreasonable burden on staffing or unduly disrupts an

institutional function, e.g., interferes with count or feeding, it is deemed unreasonable and the request will be denied.

(g) When there is reason to believe the attorney is not acting as the legal representative of the inmate or is otherwise abusing the privilege of private consultation with the inmate, the institution head is authorized to require proof that an inmate has designated the attorney as his or her legal representative or that a court has made such an appointment

(h) Not more than two attorneys or attorney representatives may visit privately with an inmate or witnesses at the same time. Exceptions to increase or limit the number of attorneys or attorney representatives allowed to privately consult with an inmate at one time, may be authorized by the official in charge of visiting commensurate with availability of space and staff supervision.

(i) After proper inspection, documents may be exchanged. The attorney or attorney representative may retain and take from the institution/facility any documents given to them by the inmate.

(j) Conversations between an inmate and an attorney and/or attorney representative shall not be listened to or monitored, except that visual observation by staff is required for safety and security.

(k) Attorney requests for the deposition of an inmate shall be made in writing to the institution head. The request shall include:

(1) The name and CDC number of the inmate.

(2) The name and other identifying information of the court reporter.

(3) The specific date and time requested for taking the deposition.

(1) Attorney or attorney representative may be permitted, with the inmate's consent, to audio record the inmate's interview.

(1) The institution/facility shall make audio recording equipment available for their use. The interviewer may use personal recording equipment providing the equipment can be thoroughly inspected by staff before entry into the institution/facility.

(2) The attorney or attorney representative must provide a factory sealed audiotape / compact disc(s).

(m) The institution head or designee may authorize video recording of inmate interviews, with the inmate's consent.

(1) Video recording equipment provided by the attorney shall be thoroughly searched for contraband.

(2) If the attorney's or attorney representative's video equipment cannot be thoroughly searched without an undue risk of damage, the equipment shall be permitted only if the attorney or

attorney representative agrees to pay for staff to escort and control the equipment while inside the institution/facility. The pay for such staff escorts shall be at the state established hourly wage, including rates for overtime when necessary.

(3) The attorney or attorney representative must provide factory sealed video tape(s).

(n) All items, including legal documents permitted into the security area, shall be inspected for contraband. The inmate may retain and take from the visiting area any documents given to him or her by the attorney or attorney representative, providing the inmate consents to the examination of the documents by the official in charge of visiting.

(1) Inspecting staff shall not read any part of a legal document without the consent of the attorney/attorney representative and inmate.

(2) The inspecting staff shall limit the inspection to the extent necessary to ensure the contents pose no threat to the security or safety of the institution/facility, including the introduction of unauthorized drugs, controlled substances, and contraband as defined in Section 3006. The inspecting staff will keep any knowledge of the content in strict confidence except when the contents pose a threat to the security or safety of the institution/facility.

(3) If the inmate does not consent to examination of the contents of a document given to the inmate by the

attorney/attorney representative, it shall be confiscated and processed in accordance with Section 3145(b).

(o) Attorneys shall not be permitted to attend or participate in any conference or committee meeting of staff and the inmate concerned, except as may be authorized in these regulations.

(p) Administrative action may be taken to restrict, for cause, the confidential privileges, including confidential visiting, mail and/or telephone privileges, or normal visiting privileges afforded to an attorney or attorney representative based upon the schedule contained in this section:

(1) A first offense of a non-serious rules violation of the department's visiting regulations shall result in a written warning that the offender's confidential legal privileges are subject to modification/suspension and that the offender is subject to exclusion for a specified period of time.

(2) A second offense of a non-serious rule violation shall result in modification/suspension/or exclusion for a period of six months.

(3) A third offense of a similar nature and/or a first offense that could be charged as a misdemeanor or felony that does not jeopardize the safety of persons or the security of the facility shall result in exclusion for a period of 12 months.

(4) A fourth offense or a second offense that could be charged as a misdemeanor or felony that does not jeopardize the

safety of persons or the security of the facility shall result in exclusion for a period of 24 months.

(5) Continued violations of a minor nature, a third offense of a more serious offense or an offense that jeopardizes the life of a person, or results in violating the security of the facility shall result in a life-time exclusion.

(q) The Director or designee shall be notified when administrative action is taken to restrict visiting privileges of an attorney or attorney representative.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 4570.5 and 5054, Penal Code; and Procunier v. Martinez, 94 S. Ct. 1800 (1974).

3178.1: Exclusion of a Person from Institutions/Facilities.

(a) The term "exclusion" as used in this article describes an administrative action by the Director or institution head to bar, for cause, a person from entering institutions/facilities of the Department, when that person would otherwise be permitted to enter. The Director may delegate the authority for exclusion no lower than the Deputy Director, Institutions Division. The institution head may delegate the exclusion authority not lower than the Chief Deputy Warden. Any person, including employees of the Department, attorneys, representatives of the news media, and

delivery persons, may be excluded. The exclusion of a person is effected by issuance of an exclusion order.

(b) Exclusion orders shall be based only upon a determination by the Director or institution head that either:

(1) The person's presence in the institution/facility presents a serious threat to security.

(2) The person is charged with a felony.

(3) The person is under investigation for a felony committed on institution/facility property.

(4) The person's purpose for entering an institution/facility is no longer valid or has been lawfully terminated.

(5) The person has committed any offense described in Subsection 3178 (p) for which exclusion is an appropriate penalty.

(c) A temporary exclusion may be ordered pending investigation and/or verification of the cause for exclusion.

(d) The Director or designee may exclude a person from any or all institutions/facilities. An institution head or designee may issue an order to exclude a person only from the institution/facility within their jurisdiction.

(e) When the institution head's exclusion order affects an inmate's attorney, or when the matter may have department wide significance, an immediate telephone report will be made to the Director. In all instances of exclusion a written report will be

made to the Director within two working days of the effective date of the order.

(f) The person excluded shall be provided with written notification of the action taken. The notification shall advise the person that, upon request, a meeting with the official who ordered the exclusion may be arranged at the convenience of both parties, and that they may bring other persons to the meeting, including an attorney, and any information or evidence to support their position. Following the meeting, the person shall be provided the official's written decision within 20 working days.

(1) If the exclusion is modified to permit the person's entry only under special conditions, the reasons shall be given.

(2) If an institution head ordered the exclusion, the person shall also be informed that the decision may be appealed to the Director.

(3) A copy of the letter to the person shall be forwarded to the director and a copy shall be retained in the institution/facility files.

(4) If the exclusion letter is rescinded in full, notice of the rescission will be given in writing to the person, with a copy to the Director.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3179. Appeals Relating to Visiting.

(a) Inmates, and approved inmate visitors, and visiting applicants may appeal in writing department policies, staff decisions, and institution/facility procedures relating to visiting.

(1) Inmates shall use the established inmate appeal procedures as provided in Section 3084 through 3085.

(2) All appeals by approved inmate visitors and visiting applicants related to visiting shall be submitted to the institution head.

(b) Visitor appeals related to institution/facility procedures or staff decisions shall be addressed to the institution head. A written response shall be provided within 15 working days from receipt of the appeal. If dissatisfied with the institution/facility response or action, the appellant may refer their appeal, with a copy of the institution/facility decision, to the Director.

(c) Appeals related to visiting regulations shall be addressed to the Director. A written response to appeals addressed to the Director shall be provided within 20 working days from the date of receipt.

(d) All subsequent decisions made as the result of an appeal and the reasons for the decisions shall be documented with a copy to the appellant and/or inmate. Visiting privileges shall be promptly approved or restored when an investigation concludes

that no violation of rules, regulations, or procedures took place.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.